SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1955

No.

HOBSON P. JONES,
Appellant-Petitioner,

v.

THE STATE OF MISSISSIPPI,
Appellee-Respondent

STATEMENT OF JURISDICTION AND OTHER MATTERS REQUIRED BY RULE 12

In compliance with Rule 12, Petitioner files his Statement of Jurisdiction and Other Matters Required under said Rule.

Statutory Provisions Sustaining Jurisdiction

Jurisdiction of the Supreme Court of the United States is invoked under Title 28 U.S.C., Section 1257 (2) and (3), being 62 Stat. 929, Chap. 646, and Title 28 U.S.C., Section 2103.

Federal Questions Sought to Be Reviewed

The Petitioner, Jones, was denied his constitutional rights and guaranties under the Fourteenth Amendment to a fair and impartial trial by the trial court, the Circuit

Court of the First Judicial District of Hinds County, Mississippi, and the error sustained by affirmance in the Supreme Court of the State of Mississippi where the question was raised, particularly with reference to the improper and prejudicial argument of the District Attorney in his closing argument wherein he referred to other crimes that may have been committed by the defendant when there was nothing in the record to sustain the argument. The Trial Judge, thereupon, admonished the District Attorney, instructed the jury not to consider the prejudicial argument but overruled a motion of the defendant, petitioner here, for a mistrial and then a new trial because of the prejudicial error. The Supreme Court of the State of Mississippi affirmed the action of the Trial Court on this particular point although the Supreme Court of the State of Mississippi have theretofore held that the mere admonition of counsel and the statement of the Trial Judge that the jury should not consider the particular improper argument were not sufficient to cure the harmful effects of prejudicial argument.

Compare: *Berry* v. *State*, 212 Miss. 164, 54 So. 2d 222.

Also: *Gallegos* v. *Nebraska*, 342 U. S. 55, 72 S. Ct. 141, 96 L. Ed. 86.

There was a final judgment by the highest court in the State of Mississippi in which the decision could be had. The suggestion of error was overruled on the 16th of May, 1955, and the application for review was granted by the Chief Justice of the Supreme Court of Mississippi on the 18th day of May, 1955, and that appeal to this Honorable Court was perfected by the posting of cost and appearance bond with supersedeas approved by the Clerk of the Supreme Court of the State of Mississippi on May 18, 1955.

There has been a final determination of a constitutional question by the highest court of the State of Mississippi

and Petitioner has exhausted all of his remedies in the State courts and he now, therefore, seeks to have the decision of the Mississippi Supreme Court reviewed on appeal or by writ of certiorari by this Honorable Court.

Reasons Relied Upon for Allowance of the Writ

A substantial constitutional question presents itself with respect to the right of the accused to a fair and impartial trial in the State court and not to have prejudicial argument made by the District Attorney in the closing argument when there is no opportunity for counsel for the Petitioner to reply and respond to such improper argument although the Trial Judge admonishes the District Attorney, directs the jury not to consider the improper argument and holds that the argument is prejudicial. The attorney for the Petitioner moved promptly for a mistrial and then raised the question again on motion for a new trial, argued it on his appeal to the Supreme Court of Mississippi, re-asserted it in his Suggestion of Error but was denied his right to a fair and impartial trial without prejudicial argument throughout the entire proceedings in the State Courts.

Prayer

WHEREFORE, the Petitioner prays that a writ of certiorari issue under the seal of this Court directed to the Supreme Court of the State of Mississippi commanding said Court to certify and send to this Court a full and complete transcript of the record and of the proceedings of the said Supreme Court of the State of Mississippi had in the case numbered and entitled on its docket, No. 39,640, *Hobson P. Jones* v. *The State of Mississippi*, to the end that this cause may be reviewed and determined by this Court as provided for by the Statutes of the United States and that the judgment of the said Supreme Court of the State of

Mississippi may be reversed by this Court and for such other, further and general relief as to this Court may seem proper.

HOBSON P. JONES,
Appellant-Petitioner;
By FORREST B. JACKSON,
His Attorney.

(3492-6)